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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,789	12/01/2003	Ichiro Futohashi	51270-307071	1910

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EXAMINER

CHAN, RICHARD

ART UNIT PAPER NUMBER

2618

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,789

Applicant(s)

FUTOHASHI, ICHIRO

Examiner

Richard Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-7 is/are rejected.
- 7) ☐ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Tagawa (US 6,947,728).

With respect to claim 1, Tagawa discloses the telecommunication terminal apparatus 100 capable of giving a notification using a melody, comprising: storage means 107 (Col.13 lines 59-63) configured to store musical composition data 203 in which a plurality of starting points, labeled as resume points 502 are suitable for starting a performance are set; point register means 312 for storing information indicative of an arbitrary performance starting position of the musical composition data; (Col.13 line 63-67) and musical tone-generating means 106, in Fig.3 responsive to an instruction for starting the notification using the melody, for reading out the musical composition data from said storage means 107 and for reproducing the readout musical composition according to the information indicative of the performance starting position 312, stored in said point register

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means, to thereby start generating the melody from the arbitrary performance starting position of the musical composition data 203. (Col.9 lines 56-34)

With respect to claim 2, Tagawa discloses the telecommunication terminal apparatus 100 according to claim 1, wherein said musical tone-generating means 106 is responsive to an instruction for ending the notification from control unit 103 using the melody, for stopping reproducing the musical composition data 203 (Col.13- line 52-63) and for writing information indicative of a reproduction stop position 312 of the musical composition data having been reproduced and a starting point corresponding to a position closest to the reproduction stop position among the plurality of starting points into said point register means. (Col.13 line 52-67)

With respect to claim 5, Tagawa discloses the telecommunication terminal apparatus 100 according to claim 1, wherein one starting point 312 can be selected from among the plurality of starting points anywhere located on song data file 203, and the selected one starting point is written as the performance starting position into said point register means. (Col.13 line 52-67)

With respect to claim 6, Tagawa discloses a telecommunication terminal apparatus 100 capable of giving notification using a melody, comprising: storage means 107 configured to store musical composition data 203 in which a plurality of starting points 501 and 502 are suitable for starting a performance are set;

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point register means 312 for storing information indicative of an arbitrary performance starting position of the musical composition data 203, (Col.9 lines 56-34) said arbitrary performance starting position 502 corresponding to a selected one of said plurality of starting points; and musical tone generating means 106 in Fig.3 responsive to an instruction for starting the notification using the melody through control unit 103, for dynamically generating the melody from said selected one of the plurality of starting points by reproducing the musical composition data in accordance with the new information indicative of the performance starting position.(Col.13 line54-59)

With respect to claim 7, Tagawa discloses a telecommunication terminal apparatus 100 according to claim 6, wherein said musical tone generating means 106 is responsive to an instruction for ending the notification using the melody 203(Col.13 line 52-59), and is configured to stop reproducing the musical composition data 203 and to dynamically write, into said point register means, information indicative of a reproduction stop position of the musical composition data 203 and a starting position corresponding to a single one of said plurality of starting points 503 that is closest to the reproduction stop position. (Col.13 lines 59-67)

Allowable Subject Matter

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3. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With respect to claim 3, Tagawa discloses the telecommunication terminal apparatus 100 according to claim 1, wherein said musical tone-generating means 106 is responsive to an instruction from control unit 103 for ending the notification using the melody, for stopping reproducing the musical composition data 203 (Col.13- line 52-63) and for writing information indicative of a reproduction stop position 312 of the musical composition data 203, however the prior art does not disclose wherein the musical data having been reproduced and a starting point corresponding to a rear position closest to the reproduction stop position among the plurality of starting points into said point register means.

With respect to claim 4, Tagawa discloses the telecommunication terminal apparatus 100 according to claim 1, wherein said musical tone-generating means 106 is responsive to the instruction for starting the notification using the melody at point 501, however the prior art does not disclose wherein generating the melody from a starting point corresponding to a rear position closest to the performance starting position stored in said point register means among the plurality of starting points.

Response to Arguments

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4. Applicant's arguments, see page 5-11, filed 7/17/06, with respect to the rejection(s) of claim(s) 1-5 under 35 U.S.C. 102(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Tagawa (US 6,947,728).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

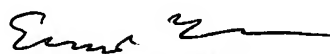
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chan whose telephone number is (571) 272-0570. The examiner can normally be reached on Mon - Fri (9AM - 5PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571)272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richard Chan
Art Division 2618
10/02/06



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